

HOUSE No. 4484

The Commonwealth of Massachusetts

PRESENTED BY:

Lewis G. Evangelidis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to the insanity defense .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Lewis G. Evangelidis	1st Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Todd M. Smola	1st Hampden
James Cantwell	4th Plymouth
Brian P. Wallace	4th Suffolk
Harold P. Naughton, Jr.	12th Worcester
George N. Peterson, Jr.	9th Worcester
Stephen L. DiNatale	3rd Worcester
Jeffrey Davis Perry	5th Barnstable
John F. Quinn	9th Bristol
Bradley H. Jones, Jr.	20th Middlesex
Donald F. Humason, Jr.	4th Hampden
Karyn E. Polito	11th Worcester
Michael R. Knapik	Second Hampden and Hampshire
Paul K. Frost	7th Worcester
Susan Williams Gifford	2nd Plymouth
James Dwyer	30th Middlesex
Robert P. Spellane	13th Worcester

Garrett J. Bradley

3rd Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act Relative to the insanity defense .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 265 of the Massachusetts General Laws, as appearing in the 2008 Official Edition is hereby amended by adding the following section:-

Section 2A. Insanity test; burden of proof; guilty except insane verdict

A. Notwithstanding any other general or special law to the contrary, any defendant charged with murder as defined by Section 1 of Chapter 265 of the General laws, may be found “guilty except insane” if at the time of the commission of the criminal act the person was afflicted with a mental disease or defect of such severity that the person did not know the criminal act was wrong. A mental disease or defect constituting legal insanity is an affirmative defense. Mental disease or defect does not include disorders that result from acute voluntary intoxication or withdrawal from alcohol or drugs, character defects, psychosexual disorders or impulse control disorders. Conditions that do not constitute legal insanity include but are not limited to momentary, temporary conditions arising from the pressure of the circumstances, moral decadence, depravity or passion growing out of anger, jealousy, revenge, hatred or other motives in a person who does not suffer from a mental disease or defect or an abnormality that is manifested only by criminal conduct.

B. In a case involving the charge of murder as defined by Section 1 of Chapter 265 of the General Laws, if a plea of insanity is made and the court determines that a reasonable basis exists to support the plea, the court may commit the defendant to Bridgewater State Hospital or another secure mental health facility under the department of health services for up to thirty days for mental health evaluation and treatment. Experts at the mental health facility who are licensed to treat such patients, who are familiar with this state's insanity statutes, who are specialists in mental diseases and defects and who are knowledgeable concerning insanity shall observe and evaluate the defendant. The expert or experts who examine the defendant shall submit a written report of the evaluation to the court, the defendant's attorney and the prosecutor.

30 C. If the finder of fact finds the defendant “guilty, except insane” of the crime of murder as
31 defined in Section 1 of Chapter 265 of the General Laws, the defendant shall be committed to
32 Bridgewater State Hospital, or another maximum security mental health treatment facility. A
33 defendant who is found to be “guilty, except insane” of the crime of murder as defined in Section
34 1 of Chapter 265 shall be committed to Bridgewater State Hospital for no less than ten years.
35 After the initial ten year commitment, the individual may be committed for additional one year
36 periods under the provisions of Section 7 and Section 8 of Chapter 123 of the General Laws.

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38 If Bridgewater State Hospital or other treating facility designated by the Commissioner releases
39 an offender found guilty except insane of murder as defined by Section 1 of Chapter 265, the
40 individual will be placed under the supervision of the Commissioner of Probation for a period of
41 not less than five years after the date of release. The treating facility shall transmit to the
42 Commissioner of Probation and to the Parole Board a report on the condition of the offender
43 which contains the clinical facts; the diagnosis; the course of treatment, and prognosis for the
44 remission of symptoms; the potential for the recidivism, and for danger to the offender's own
45 person or the public; and recommendations for future treatment. The Commissioner will order
46 that intensive treatment is a condition of probation and the defendant must report to the probation
47 department not less than three times per week. If the individual does not comply with conditions
48 of probation, the Commissioner may petition the court of jurisdiction to hold a hearing for re-
49 commitment to Bridgewater State Hospital.

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51 D. A “guilty except insane” verdict is a criminal conviction and shall appear on the Criminal
52 Offender Record Information System.

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54 E. In cases involving murder as defined by Section 1 of Chapter 265 of the General Laws, “not
55 guilty by reason of insanity” will no longer be an available disposition.
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